

AMENDED IN SENATE JUNE 11, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 235**

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**Introduced by Assembly Member Hayashi**

February 6, 2009

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An act to amend Section 1317.1 of, and to add Section 1317.4a to, the Health and Safety Code, relating to emergency services.

### LEGISLATIVE COUNSEL'S DIGEST

AB 235, as amended, Hayashi. Emergency services and care.

(1) Existing law provides for the regulation of health facilities, including general acute care hospitals and acute psychiatric hospitals. A violation of these provisions is a crime. Existing law requires emergency services and care to be provided to any person requesting the services or care for any condition in which the person is in danger of loss of life. For purposes of these provisions, existing law defines emergency services and care to include additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, as provided.

This bill would define psychiatric emergency medical condition, and would, for this purpose, include admission or transfer to a psychiatric unit within a general acute care hospital or to an acute psychiatric hospital within the care and treatment of this condition.

This bill would, consistent with provisions of law relating to involuntary mental health services, also allow the transfer of a patient

to a psychiatric unit within a general acute care hospital or to an acute psychiatric hospital for the purpose of providing care and treatment that is solely necessary to relieve or eliminate a psychiatric emergency medical condition if, in the opinion of the treating provider, the patient's *psychiatric emergency* medical condition is such that, within a reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, the transfer of the patient. The bill would require a provider to notify the patient's health care service plan, or the health plan's contracting *medical* provider, of the need for the transfer, as provided. The bill would require a hospital that transfers a patient pursuant to these provisions to seek to obtain the name and contact information of the patient's health care service plan, would require the hospital to document its attempt to ascertain this information, and would require the hospital to notify the health care service plan *or the health plan's contracting medical provider* of specified information related to the transfer, as provided. The bill would also require a health care service plan to provide noncontracting hospitals with its contact information, as provided, and would require health care service plans to update this information as necessary, but no less than once a year. The bill would further require the hospital to which a patient is transferred pursuant to these provisions to notify the patient's health care service plan of the transfer, as provided. By creating new crimes, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1317.1 of the Health and Safety Code is
- 2 amended to read:
- 3 1317.1. Unless the context otherwise requires, the following
- 4 definitions shall control the construction of this article and Section
- 5 1371.4:
- 6 (a) (1) "Emergency services and care" means medical screening,
- 7 examination, and evaluation by a physician, or, to the extent

permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the capability of the facility.

(2) (A) “Emergency services and care” also means an additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, within the capability of the facility.

(B) The care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition may include admission or transfer to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or to an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, pursuant to subdivision (k). Nothing in this subparagraph shall be construed to permit a transfer that is in conflict with the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

(C) For the purposes of Section 1371.4, emergency services and care as defined in this paragraph *subparagraph (A)* shall not apply to ~~services provided under managed care contracts with the Medi-Cal program~~ *Medi-Cal managed care plan contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14590) of Part 3 of Division 9 of the Welfare and Institutions Code*, to the extent that those services are excluded from coverage under ~~the contract~~ *those contracts*.

(D) This paragraph does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.

(b) “Emergency medical condition” means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

1 (1) Placing the patient's health in serious jeopardy.

2 (2) Serious impairment to bodily functions.

3 (3) Serious dysfunction of any bodily organ or part.

4 (c) "Active labor" means a labor at a time at which either of the  
5 following would occur:

6 (1) There is inadequate time to effect safe transfer to another  
7 hospital prior to delivery.

8 (2) A transfer may pose a threat to the health and safety of the  
9 patient or the unborn child.

10 (d) "Hospital" means all hospitals with an emergency department  
11 licensed by the state department.

12 (e) "State department" means the State Department of Public  
13 Health.

14 (f) "Medical hazard" means a material deterioration in medical  
15 condition in, or jeopardy to, a patient's medical condition or  
16 expected chances for recovery.

17 (g) "Board" means the Medical Board of California.

18 (h) "Within the capability of the facility" means those  
19 capabilities that the hospital is required to have as a condition of  
20 its emergency medical services permit and services specified on  
21 Services Inventory Form 7041 filed by the hospital with the Office  
22 of Statewide Health Planning and Development.

23 (i) "Consultation" means the rendering of an opinion, advice,  
24 or prescribing treatment by telephone and, when determined to be  
25 medically necessary jointly by the emergency and specialty  
26 physicians, includes review of the patient's medical record,  
27 examination, and treatment of the patient in person by a specialty  
28 physician who is qualified to give an opinion or render the  
29 necessary treatment in order to stabilize the patient.

30 (j) A patient is "stabilized" or "stabilization" has occurred when,  
31 in the opinion of the treating provider, the patient's medical  
32 condition is such that, within reasonable medical probability, no  
33 material deterioration of the patient's condition is likely to result  
34 from, or occur during, the release or transfer of the patient as  
35 provided for in Section 1317.2, Section 1317.2a, or other pertinent  
36 statute.

37 (k) (1) "Psychiatric emergency medical condition" means a  
38 mental disorder that manifests itself by acute symptoms of  
39 sufficient severity that it renders the patient as being either of the  
40 following:

1 (A) An immediate danger to himself or herself or to others.

2 (B) Immediately unable to provide for, or utilize, food, shelter,  
3 or clothing, due to the mental disorder.

4 (2) This subdivision does not expand, restrict, or otherwise  
5 affect the scope of licensure or clinical privileges for clinical  
6 psychologists or medical personnel.

7 SEC. 2. Section 1317.4a is added to the Health and Safety  
8 Code, to read:

9 1317.4a. (a) Notwithstanding subdivision (j) of Section 1317.1,  
10 a patient may be transferred for admission to a psychiatric unit  
11 within a general acute care hospital, as defined in subdivision (a)  
12 of Section 1250, or an acute psychiatric hospital, as defined in  
13 subdivision (b) of Section 1250, for care and treatment that is  
14 solely necessary to relieve or eliminate a psychiatric emergency  
15 medical condition, as defined in subdivision (k) of Section 1317.1,  
16 provided that, in the opinion of the treating provider, the patient's  
17 psychiatric emergency medical condition is such that, within  
18 reasonable medical probability, no material deterioration of the  
19 patient's psychiatric emergency medical condition is likely to result  
20 from, or occur during, a transfer of the patient. A provider shall  
21 notify the patient's health care service plan, or the health plan's  
22 contracting medical provider of the need for the transfer if  
23 identification of the plan is obtained pursuant to paragraph (1) of  
24 subdivision (b).

25 (b) A hospital that transfers a patient pursuant to subdivision  
26 (a) shall do both of the following:

27 (1) Seek to obtain the name and contact information of the  
28 patient's health care service plan. The hospital shall document its  
29 attempt to ascertain this information in the patient's medical record.  
30 The hospital's attempt to ascertain the information shall include  
31 requesting the patient's health care service plan member card,  
32 asking the patient, the patient's family member, or other person  
33 accompanying the patient if he or she can identify the patient's  
34 health care service plan, or using other means known to the hospital  
35 to accurately identify the patient's health care service plan.

36 (2) Notify the patient's health care service plan or the health  
37 plan's contracting medical provider of the transfer, provided that  
38 the identification of the plan was obtained pursuant to paragraph  
39 (1). The hospital shall provide the plan or its contracting medical  
40 provider with the name of the patient, the patient's member

1 identification number, if known, the location and contact  
2 information, including a telephone number, for the location where  
3 the patient will be admitted, and the preliminary diagnosis.

4 (c) (1) A hospital shall make the notification described in  
5 paragraph (2) of subdivision (b) by either following the instructions  
6 on the patient's health care service plan member card or by using  
7 the contact information provided by the patient's health care service  
8 plan. A health care service plan shall provide all noncontracting  
9 hospitals in the state to which one of its members would be  
10 transferred pursuant to paragraph (1) of subdivision (b) with  
11 specific contact information needed to make the contact required  
12 by this section. The contact information provided to hospitals shall  
13 be updated as necessary, but no less than once a year.

14 (2) A hospital making the transfer pursuant to subdivision (a)  
15 shall not be required to make more than one telephone call to the  
16 health care service plan, or its contracting medical provider,  
17 provided that in all cases the health care service plan, or its  
18 contracting medical provider, shall be able to reach a representative  
19 of the provider upon returning the call, should the plan, or its  
20 contracting medical provider, need to call back. The representative  
21 of the hospital who makes the telephone call may be, but is not  
22 required to be, a physician and surgeon.

23 (d) If a transfer made pursuant to subdivision (a) is made to a  
24 facility that does not have a contract with the patient's health care  
25 service plan, the plan may subsequently require and make provision  
26 for the transfer of the patient receiving services pursuant to this  
27 section and subdivision (a) of Section 1317.1 from the  
28 noncontracting facility to a general acute care hospital, as defined  
29 in subdivision (a) of Section 1250, or an acute psychiatric hospital,  
30 as defined in subdivision (b) of Section 1250, that has a contract  
31 with the plan or its delegated payer, provided that in the opinion  
32 of the treating provider the patient's psychiatric emergency medical  
33 condition is such that, within reasonable medical probability, no  
34 material deterioration of the patient's psychiatric emergency  
35 medical condition is likely to result from, or occur during, the  
36 transfer of the patient.

37 (e) Upon admission, the hospital to which the patient was  
38 transferred shall notify the health care service plan of the transfer,  
39 provided that the facility has the name and contact information of  
40 the patient's health care service plan. The facility shall not be

1 required to make more than one telephone call to the health care  
2 service plan, or its contracting medical provider, provided that in  
3 all cases the health care service plan, or its contracting medical  
4 provider, shall be able to reach a representative of the facility upon  
5 returning the call, should the plan, or its contracting medical  
6 provider, need to call back. The representative of the facility who  
7 makes the telephone call may be, but is not required to be, a  
8 physician and surgeon.

9 (f) Nothing in this subdivision shall be construed to require  
10 providers to seek authorization to provide emergency services and  
11 care, as defined in paragraph (2) of subdivision (a) of Section  
12 1317.1, to a patient who has a psychiatric emergency medical  
13 condition, as defined in subdivision (k) of Section 1317.1, that is  
14 not otherwise required by law.

15 SEC. 3. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.